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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/518,080

09/29/2005

Hakan Engqvist

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2891

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EXAMINER

KOSLOW, CAROL M

ART UNIT

PAPER NUMBER

1793

MAIL DATE

DELIVERY MODE

08/01/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/518,080	Applicant(s) ENGQVIST ET AL.	
	Examiner C. Melissa Koslow	Art Unit 1793	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 15-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 15-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

This action is in response to applicants' amendment of 8 May 2008. The amendment to the specification has overcome the objection to the drawings. The amendments to the claims have overcome the objection to claim 14 and the 35 USC 112 rejection of claims 1, 5, 9-11, 14 and 20. Applicant's arguments with respect to the remaining objection and rejections have been fully considered but they are not persuasive.

The indicated allowability of claim 12 is withdrawn in view of the amendment to claim 1. Rejections based on the amendment follow.

The disclosure is objected to because of the following informalities:

The specification teaches the binder phase consists of a cement-based system and then state the cement-based system comprises cements selected from the group consisting of aluminate, silicates, phosphates, sulfates and combinations thereof. The actual composition of the binder phase is unclear since applicants first defines it using closed language (consists) and then defines it using open language "comprises". Appropriate correction is required.

Applicant state that they have amended the specification to overcome this objection. There is no amendment to the specification addressing this objection. The objection is maintained.

Claims 9, 10, 12 and 17-19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

There is no teaching in the originally filed disclosure of the newly claimed composition comprising granules and any amount of non-compacted additives. Pages 5-6 teach non-compacted powder is present in an amount of up to 50 wt% of powdered additives or up to 40 wt% of fillers. Thus claims 9 and 10 contain new matter. Page 6 teaches the granules can be formed as a raw compact, not a composition comprising granules and optionally additional materials as now claimed in claim 12. Thus claim 12 includes new matter. Page 7, lines 6-15 teach suspending the material, which contains the granules, in a liquid which reacts with the binder phase, where the suspension is drained and compacted before the material is allowed to harden. There is no teaching of finely dividing this compacted material into the granules of claim 13. Thus claim 17 is new matter. Page 7, lines 17-21 and page 8, lines 30-32 teach the granules are mixed with a binder reactive liquid and that this suspension or paste is injected or squirted into a cavity to be filled with the cement. Claim 18 teaches applying the paste to fill a space in a further component. There is no teaching of "a further component" in the originally filed disclosure. Thus claim 18 contained new matter. Claims 18 and 19 teach applying or packing the paste in a space to be filled with the cement, which is different from the disclosed injecting or squirting step of the specification.

The amendments to the claims did not overcome the rejections.

Claims 1-13, 15-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-13 and 15-26 is indefinite since it is unclear what is the composition of "powder particles" of which the granules are composed, in addition to the additives of claims 6-8, 25 and

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26. Claims 13-19 are indefinite as to what is the method being claimed. The preamble in claim 13 of “method in connection with the manufacturing of a ceramic material” does not clearly indicate what is the actual method. Claim 13, 15-17 and 20 are directed to the method of making the powdered material. Claims 18 and 19 teach mixing the granules with a reacting liquid and applying the resulting paste to an area that is to be filled with the ceramic material. The processes of claims 13, 15-17 and 20 are different methods than that implied by claims 18 and 19. Claims 21-23 are indefinite since it is unclear if the chambers contain the liquid and granules or not.

The amendments to the claims do not overcome the rejections.

The Examiner is interpreting claims 21-23 as not including the granules and liquid.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 21 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. patent 3,655,035.

These references teach devices that have the claimed structure and where at least one of the chambers is composed of a material that allows for processing through the chamber. The references teach the claimed device.

Claims 21 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. patent 4,973,168.

This reference teaches a device comprising a first chamber for holding cement powder under vacuum pressure, an ampoule for holding a liquid, which is not under vacuum and thus has

a higher pressure than the first chamber and an openable seal between the chamber and ampoule.
The reference teaches the claimed device.

The amendments to the claims do not overcome the art rejections since they do not clearly state that the chambers contain the powder material of claim 1 and a hydration liquid.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melissa Koslow whose telephone number is (571) 272-1371. The examiner can normally be reached on Monday-Friday from 8:00 AM to 3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo, can be reached at (571) 272-1233.

The fax number for all official communications is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR

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system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/cmk/
August 2, 2008

/C. Melissa Koslow/
Primary Examiner
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